

on Tuesday, June 15, 2004, at 9:30 a.m. on Oversight of Pipeline Safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 15, 2004, at 10:30 a.m., in 215 Dirksen Senate Office Building, to hear testimony on U.S.—Australia and U.S.—Morocco Free Trade Agreements; and to consider S.J. Res. 39, Approving the Renewal of Import Restrictions Contained in the Burmese Freedom and Democracy Act of 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 15, 2004 at 9:30 a.m. to hold a hearing on Sea Island and Beyond: Status Report on the Global Partnership Against Weapons of Mass Destruction.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 15, 2004 at 2:30 p.m. to hold a hearing on Sudan: Peace But At What Price?

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 15, 2004 at 4:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, June 15, 2004, at 10:30 a.m. for a hearing titled "A Review of Current Efforts to Combat Terrorism Financing."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 15 at 10:45 a.m.

The purpose of this hearing is to receive testimony regarding crude oil supply, gasoline demand and the effects on prices.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON INDIAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Com-

mittee on Indian Affairs be authorized to meet on Tuesday, June 15, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1530, the Tribal Parity Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, June 15, 2004 at 10 a.m., on "Biometric Passports" in the Dirksen Senate Office Building, room 226. The witness list will be provided later today.

Panel I: The Honorable Maria Cantwell, United States Senator [D-WA].

Panel II: The Honorable Asa Hutchinson, Under Secretary for Border and Transportation Security, Department of Homeland Defense, Washington, DC; The Honorable Maura Harty, Assistant Secretary for Consular Affairs, Department of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 15, 2004 at 2:30 p.m., to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, June 15, 2004 from 10:15 a.m.—12:30 p.m., in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Substance Abuse and Mental Health Services be authorized to meet for a hearing on Providing Substance Abuse Prevention and Treatment Services to Adolescents during the session of the Senate on Tuesday, June 15, 2004, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGE OF THE FLOOR

Mr. TALENT. Mr. President, I ask unanimous consent that Lore Aquayo of my office be allowed the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FLOOD INSURANCE REFORM ACT OF 2004

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 513, S. 2238.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2238) to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

There being no objection, the Senate proceeded to consider the bill which was reported by the Committee on Banking, Housing, and Urban Affairs, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 2238

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Flood Insurance Reform Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Congressional findings.

#### TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

- Sec. 101. Extension of program and consolidation of authorizations.
- Sec. 102. Establishment of pilot program for mitigation of severe repetitive loss properties.
- Sec. 103. Amendments to existing flood mitigation assistance program.
- Sec. 104. FEMA authority to fund mitigation activities for individual repetitive claims properties.
- Sec. 105. Amendments to additional coverage for compliance with land use and control measures.
- Sec. 106. Actuarial rate properties.
- Sec. 107. Geospatial digital flood hazard data.
- Sec. 108. Replacement of mobile homes on original sites.
- Sec. 109. Reiteration of FEMA responsibility to map mudslides.

#### TITLE II—MISCELLANEOUS PROVISIONS

- Sec. 201. Definitions.
- Sec. 202. Supplemental forms.
- Sec. 203. Acknowledgement form.
- Sec. 204. Flood insurance claims handbook.
- Sec. 205. Appeal of decisions relating to flood insurance coverage.
- Sec. 206. Study and report on use of cost compliance coverage.
- Sec. 207. Minimum training and education requirements.
- Sec. 208. GAO study and report.
- Sec. 209. Prospective payment of flood insurance premiums.
- Sec. 210. Report on changes to fee schedule or fee payment arrangements.

#### SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—  
 (1) the national flood insurance program—  
 (A) identifies the flood risk;  
 (B) provides flood risk information to the public;  
 (C) encourages State and local governments to make appropriate land use adjustments to constrict the development of land

which is exposed to flood damage and minimize damage caused by flood losses; and

(D) makes flood insurance available on a nationwide basis that would otherwise not be available, to accelerate recovery from floods, mitigate future losses, save lives, and reduce the personal and national costs of flood disasters;

(2) the national flood insurance program insures approximately 4,400,000 policyholders;

(3) approximately 48,000 properties currently insured under the program have experienced, within a 10-year period, 2 or more flood losses where each such loss exceeds the amount \$1,000;

(4) approximately 10,000 of these repetitive-loss properties have experienced either 2 or 3 losses that cumulatively exceed building value or 4 or more losses, each exceeding \$1,000;

(5) repetitive-loss properties constitute a significant drain on the resources of the national flood insurance program, costing about \$200,000,000 annually;

(6) repetitive-loss properties comprise approximately 1 percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses;

(7) the vast majority of repetitive-loss properties were built before local community implementation of floodplain management standards under the program and thus are eligible for subsidized flood insurance;

(8) while some property owners take advantage of the program allowing subsidized flood insurance without requiring mitigation action, others are trapped in a vicious cycle of suffering flooding, then repairing flood damage, then suffering flooding, without the means to mitigate losses or move out of harm's way;

(9) mitigation of repetitive-loss properties through buyouts, elevations, relocations, or flood-proofing will produce savings for policyholders under the program and for Federal taxpayers through reduced flood insurance losses and reduced Federal disaster assistance;

(10) a strategy of making mitigation offers aimed at high-priority repetitive-loss properties and shifting more of the burden of recovery costs to property owners who choose to remain vulnerable to repetitive flood damage can encourage property owners to take appropriate actions that reduce loss of life and property damage and benefit the financial soundness of the program;

(11) the method for addressing repetitive-loss properties should be flexible enough to take into consideration legitimate circumstances that may prevent an owner from taking a mitigation action; and

(12) focusing the mitigation and buy-out of repetitive loss properties upon communities and property owners that choose to voluntarily participate in a mitigation and buy-out program will maximize the benefits of such a program, while minimizing any adverse impact on communities and property owners.

#### TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

##### SEC. 101. EXTENSION OF PROGRAM AND CONSOLIDATION OF AUTHORIZATIONS.

(a) BORROWING AUTHORITY.—The first sentence of section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), is amended by striking “through December” and all that follows through “, and” and inserting “through the date specified in section 1319, and”.

(b) AUTHORITY FOR CONTRACTS.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026), is amended by striking “after” and all that follows and inserting “after September 30, 2008.”.

(c) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)), is amended by striking “during the period” and all that follows through “in accordance” and inserting “during the period ending on the date specified in section 1319, in accordance”.

(d) AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.—Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)), is amended by striking “through” and all that follows and inserting “through the date specified in section 1319, for studies under this title.”.

##### SEC. 102. ESTABLISHMENT OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) IN GENERAL.—The National Flood Insurance Act of 1968 is amended by inserting after section 1361 (42 U.S.C. 4102) the following:

##### “SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

“(a) AUTHORITY.—To the extent amounts are made available for use under this section, the Director may, subject to the limitations of this section, provide financial assistance to States and communities for taking actions with respect to severe repetitive loss properties (as such term is defined in subsection (b)) to mitigate flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

“(b) SEVERE REPETITIVE LOSS PROPERTY.—For purposes of this section, the term ‘severe repetitive loss property’ has the following meaning:

“(1) SINGLE-FAMILY PROPERTIES.—In the case of a property consisting of 1 to 4 residences, such term means a property that—

“(A) is covered under a contract for flood insurance made available under this title; and

“(B) has incurred flood-related damage—

“(i) for which 3 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceeding \$3,000, and with the cumulative amount of such claims payments exceeding \$15,000; or

“(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

“(2) MULTIFAMILY PROPERTIES.—In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director shall by regulation provide.

“(c) ELIGIBLE ACTIVITIES.—Amounts provided under this section to a State or community may be used only for the following activities:

“(1) MITIGATION ACTIVITIES.—To carry out mitigation activities that reduce flood damages to severe repetitive loss properties, including elevation, relocation, demolition, and floodproofing of structures, and minor physical localized flood control projects, and the demolition and rebuilding of properties to at least 1 foot above Base Flood Elevation or greater, if required by any local ordinance.

“(2) PURCHASE.—To purchase severe repetitive loss properties, subject to subsection (f).

“(d) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), in any 1-year period the Director may not provide assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds for carrying out the eligible activities to be funded with such assistance amounts.

“(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assist-

ance is made available under this section, the Director may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

“(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

“(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.

“(3) NON-FEDERAL FUNDS.—For purposes of this subsection, the term ‘non-Federal funds’ includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the eligible activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

“(e) STANDARDS FOR MITIGATION OFFERS.—The program under this section for providing assistance for eligible activities for severe repetitive loss properties shall be subject to the following limitations:

“(1) PRIORITY.—In determining the properties for which to provide assistance for eligible activities under subsection (c), the Director shall provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.

“(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties to take eligible activities under subsection (c) as soon as practicable.

“(3) NOTICE.—Upon making an offer to provide assistance with respect to a property for any eligible activity under subsection (c), the State or community shall notify each holder of a recorded interest on the property of such offer and activity.

“(f) PURCHASE OFFERS.—A State or community may take action under subsection (c)(2) to purchase a severe repetitive loss property only if the following requirements are met:

“(1) USE OF PROPERTY.—The State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b).

“(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties and of associated land to engage in eligible activities as soon as possible.

“(3) PURCHASE PRICE.—The amount of purchase offer is not less than the greatest of—

“(A) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

“(B) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

“(C) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property, or an amount equal to the current fair market value of the property.”

“(4) COMPARABLE HOUSING PAYMENT.—If a purchase offer made under paragraph (2) is less than the cost of the homeowner-occupant to purchase a comparable replacement dwelling outside the flood hazard area in the same community, the Director shall make available an additional relocation payment to the homeowner-occupant to apply to the difference.”

“(g) INCREASED PREMIUMS IN CASES OF REFUSAL TO MITIGATE.—

“(1) IN GENERAL.—In any case in which the owner of a severe repetitive loss property refuses an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property, the Director shall—

“(A) notify each holder of a recorded interest on the property of such refusal; and

“(B) notwithstanding subsections (a) through (c) of section 1308, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time that the offer was made, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to paragraph (2) and subject to the limitation under paragraph (3).

“(2) INCREASED PREMIUMS UPON SUBSEQUENT FLOOD DAMAGE.—Notwithstanding subsections (a) through (c) of section 1308, if the owner of a severe repetitive loss property does not accept an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property and a claim payment exceeding \$1,500 is made under flood insurance coverage under this title for damage to the property caused by a flood event occurring after such offer is made, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time of such flood event, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to this paragraph and subject to the limitation under paragraph (3).

“(3) LIMITATION ON INCREASED PREMIUMS.—In no case may the chargeable premium rate for a severe repetitive loss property be increased pursuant to this subsection to an amount exceeding the applicable estimated risk premium rate for the area (or subdivision thereof) under section 1307(a)(1).

“(4) TREATMENT OF DEDUCTIBLES.—Any increase in chargeable premium rates required under this subsection for a severe repetitive loss property may be carried out, to the extent appropriate, as determined by the Director, by adjusting any deductible charged in connection with flood insurance coverage under this title for the property.

“(5) NOTICE OF CONTINUED OFFER.—Upon each renewal or modification of any flood insurance coverage under this title for a severe repetitive loss property, the Director shall notify the owner that the offer made pursuant to subsection (c) is still open.

“(6) APPEALS.—

“(A) IN GENERAL.—Any owner of a severe repetitive loss property may appeal a determination of the Director to take action under paragraph (1)(B) or (2) with respect to such property, based only upon the following grounds:

“(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

“(ii) Based on independent information, such as contractor estimates or appraisals,

the property owner believes that the price offered for purchasing the property is not an accurate estimation of the value of the property, or the amount of Federal funds offered for mitigation activities, when combined with funds from non-Federal sources, will not cover the actual cost of mitigation.

“(iii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of historic places will be interfered with, impaired, or disrupted.

“(iv) The flooding that resulted in the flood insurance claims described in subsection (b)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

“(v) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

“(B) PROCEDURE.—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1)(B) or (2), as applicable.

“(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

“(i) if a final determination is made that the grounds under subparagraph (A) exist, the third party hearing such appeal shall make a determination of how much to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1)(B) or (2) and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount; and

“(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1)(B) or (2), as applicable, and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

“(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

“(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

“(ii) by the National Flood Insurance Fund, if such final determination is that the grounds under subparagraph (A) do exist.

“(E) REPORT.—Not later than 6 months after the date of the enactment of the Flood Insurance Reform Act of 2004, the Director shall submit a report describing the rules, procedures, and administration for appeals under this paragraph to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Financial Services of the House of Representatives.

“(h) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a severe repetitive loss property, the Director may—

“(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

“(2) refuse to renew the policy with such policyholder upon expiration and deny the provision of any new flood insurance coverage under this title to such policyholder for the property.

“(i) FUNDING.—

“(1) IN GENERAL.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years 2004, 2005, 2006, 2007, and 2008, except that the amount so used in each such fiscal year may not exceed \$40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

“(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under this subsection, the Director may use up to 5 percent for expenses associated with the administration of section 1361A.

“(j) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2008.”

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (7), by striking “and” at the end; and

(2) by striking paragraph (8) and inserting the following:

“(8) for financial assistance under section 1361A to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 1361A(i); and”.

#### SEC. 103. AMENDMENTS TO EXISTING FLOOD MITIGATION ASSISTANCE PROGRAM.

(a) STANDARD FOR APPROVAL OF MITIGATION PLANS.—Section 1366(e)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following new sentence: “The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund.”

(b) PRIORITY FOR MITIGATION ASSISTANCE.—Section 1366(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by striking paragraph (4) and inserting the following:

“(4) PRIORITY FOR MITIGATION ASSISTANCE.—In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to such properties, or to such subsets of such properties as the Director may establish, that the Director determines are in the best interests of the National Flood Insurance Fund and for which matching amounts under subsection (f) are available.”

(c) COORDINATION WITH STATES AND COMMUNITIES.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following:

“(m) COORDINATION WITH STATES AND COMMUNITIES.—The Director shall, in consultation and coordination with States and communities take such actions as are appropriate to encourage and improve participation in the national flood insurance program of owners of properties, including owners of properties that are not located in areas having special flood hazards [but are located within the 100-year floodplain] (*the 100-year floodplain*), but are located within flood prone areas.”

(d) FUNDING.—Section 1367(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d(b)) is amended by striking paragraph (1) and inserting the following:

“(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding \$40,000,000, to remain available until expended;”

(e) REDUCED COMMUNITY MATCH.—Section 1366(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(g)), is amended—

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assistance is made available under this section, the Director may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

“(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

“(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.”

(f) NATIONAL FLOOD MITIGATION FUND.—Section 1366(b)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(b)(2)), is amended by striking “\$1,500,000” and inserting “7.5 percent of the available funds under this section”.

#### SEC. 104. FEMA AUTHORITY TO FUND MITIGATION ACTIVITIES FOR INDIVIDUAL REPETITIVE CLAIMS PROPERTIES.

(a) IN GENERAL.—Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following:

##### “SEC. 1323. GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.

“(a) IN GENERAL.—The Director may provide funding for mitigation actions that reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage under this title, but only if the Director determines that—

“(1) such activities are in the best interest of the National Flood Insurance Fund; and

“(2) such activities cannot be funded under the program under section 1366 because—

“(A) the requirements of section 1366(g) are not being met by the State or community in which the property is located; or

“(B) the State or community does not have the capacity to manage such activities.

“(b) PRIORITY FOR WORST-CASE PROPERTIES.—In determining the properties for which funding is to be provided under this section, the Director shall consult with the States in which such properties are located and provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.”

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended by adding at the end the following:

“(9) for funding, not to exceed \$10,000,000 in any fiscal year, for mitigation actions under section 1323, except that, notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.”

#### SEC. 105. AMENDMENTS TO ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—Section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “compliance” and inserting “implementing measures that are consistent”; and

(B) by inserting “by the community” after “established”; and

(2) in paragraph (2), by striking “have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and” and inserting “are substantially damaged structures;”

(3) in paragraph (3), by striking “compliance with land use and control measures,” and inserting “the implementation of such measures; and”; and

(4) by inserting after paragraph (3) and before the last undesignated paragraph the following:

“(4) properties for which an offer of mitigation assistance is made under—

“(A) section 1366 (Flood Mitigation Assistance Program);

“(B) section 1368 (Repetitive Loss Priority Program and Individual Priority Property Program);

“(C) the Hazard Mitigation Grant Program authorized under section 404 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5170c);

“(D) the Predisaster Hazard Mitigation Program under section 203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5133); and

“(E) any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.”

(b) DEFINITIONS.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) by striking paragraph (7) and inserting the following:

“(7) the term ‘repetitive loss structure’ means a structure covered by a contract for flood insurance that—

“(A) has incurred flood-related damage on 2 occasions, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event; and

“(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.”

(2) in paragraph (13), by striking “and” at the end;

(3) in paragraph (14), by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(15) the term ‘substantially damaged structure’ means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the Director, or by a community ordinance, whichever is lower.”

#### SEC. 106. ACTUARIAL RATE PROPERTIES.

(a) IN GENERAL.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by striking subsection (c) and inserting the following:

“(c) ACTUARIAL RATE PROPERTIES.—Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

“(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

“(2) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.”

(b) INAPPLICABILITY OF ANNUAL LIMITATIONS ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended by striking “Notwithstanding” and inserting “Except with respect to properties described under paragraph (2) or (3) of subsection (c), and notwithstanding”.

#### SEC. 107. GEOSPATIAL DIGITAL FLOOD HAZARD DATA.

For the purposes of flood insurance and floodplain management activities conducted pursuant to the National Flood Insurance Program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), geospatial digital flood hazard data distributed by the Federal Emergency Management Agency, or its designee, or the printed products derived from that data, are interchangeable and legally equivalent for the determination of the location of 1 in 100 year and 1 in 500 year flood planes, provided that all other geospatial data shown on the printed product meets or exceeds any accuracy standard promulgated by the Federal Emergency Management Agency.

#### SEC. 108. REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended by adding at the end the following:

“(c) REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.—

“(1) COMMUNITY PARTICIPATION.—The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this title and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—

“(A) such mobile home was previously located on such site;

“(B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and

“(C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

“(2) DEFINITION.—For purposes of this subsection, the term ‘mobile home’ has the

meaning given such term in the law of the State in which the mobile home is located.”.

#### SEC. 109. REITERATION OF FEMA RESPONSIBILITY TO MAP MUDSLIDES.

As directed in section 1360(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(b)), the Director of the Federal Emergency Management Agency is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of such section 1360, in order to make known the degree of hazard within each such zone at the earliest possible date.

### TITLE II—MISCELLANEOUS PROVISIONS

#### SEC. 201. DEFINITIONS.

In this title, the following definitions shall apply:

(1) **DIRECTOR.**—The term “Director” means the Director of the Federal Emergency Management Agency.

(2) **FLOOD INSURANCE POLICY.**—The term “flood insurance policy” means a flood insurance policy issued under the National Flood Insurance Act of 1968 (42 U.S.C. et seq.).

(3) **PROGRAM.**—The term “Program” means the National Flood Insurance Program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

#### SEC. 202. SUPPLEMENTAL FORMS.

(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Director shall develop supplemental forms to be issued in conjunction with the issuance of a flood insurance policy that set forth, in simple terms—

(1) the exact coverages being purchased by a policyholder;

(2) any exclusions from coverage that apply to the coverages purchased;

(3) an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss;

(4) the number and dollar value of claims filed under a flood insurance policy over the life of the property, and the effect, under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), of the filing of any further claims under a flood insurance policy with respect to that property; and

(5) any other information that the Director determines will be helpful to policyholders in understanding flood insurance coverage.

(b) **DISTRIBUTION.**—The forms developed under subsection (a) shall be given to—

(1) all holders of a flood insurance policy at the time of purchase and renewal; and

(2) insurance companies and agents that are authorized to sell flood insurance policies.

#### SEC. 203. ACKNOWLEDGEMENT FORM.

(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Director shall develop an acknowledgement form to be signed by the purchaser of a flood insurance policy that contains—

(1) an acknowledgement that the purchaser has received a copy of the standard flood insurance policy, and any forms developed under section 202; and

(2) an acknowledgement that the purchaser has been told that the contents of a property or dwelling are not covered under the terms of the standard flood insurance policy, and that the policyholder has the option to purchase additional coverage for such contents.

(b) **DISTRIBUTION.**—Copies of an acknowledgement form executed under subsection (a) shall be made available to the purchaser and the Director.

#### SEC. 204. FLOOD INSURANCE CLAIMS HANDBOOK.

(a) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Director shall develop a flood insurance claims handbook that contains—

(1) a description of the procedures to be followed to file a claim under the Program, including how to pursue a claim to completion;

(2) how to file supplementary claims, proof of loss, and any other information relating to the filing of claims under the Program; and

(3) detailed information regarding the appeals process established under section 205.

(b) **DISTRIBUTION.**—The handbook developed under subsection (a) shall be made available to—

(1) each insurance company and agent authorized to sell flood insurance policies; and

(2) each purchaser, at the time of purchase and renewal, of a flood insurance policy, and at the time of any flood loss sustained by such purchaser.

#### SEC. 205. APPEAL OF DECISIONS RELATING TO FLOOD INSURANCE COVERAGE.

Not later than 6 months after the date of enactment of this Act, the Director shall, by regulation, establish an appeals process through which holders of a flood insurance policy may appeal the decisions, with respect to claims, proofs of loss, and loss estimates relating to such flood insurance policy, of—

(1) any insurance agent or adjuster, or insurance company; or

(2) any employee or contractor of the Federal Emergency Management Agency.

#### SEC. 206. STUDY AND REPORT ON USE OF COST COMPLIANCE COVERAGE.

Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit to Congress a report that sets forth—

(1) the use of cost of compliance coverage under section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) in connection with flood insurance policies;

(2) any barriers to policyholders using the funds provided by cost of compliance coverage under that section 1304(b) under a flood insurance policy, and recommendations to address those barriers; and

(3) the steps that the Federal Emergency Management Agency has taken to ensure that funds paid for cost of compliance coverage under that section 1304(b) are being used to lessen the burdens on all homeowners and the Program.

#### SEC. 207. MINIMUM TRAINING AND EDUCATION REQUIREMENTS.

The Director of the Federal Emergency Management Agency shall, in cooperation with the insurance industry, *State insurance regulators*, and other interested parties—

(1) establish minimum training and education requirements for all insurance agents who sell flood insurance policies; and

(2) not later than 6 months after the date of enactment of this Act, publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements.

#### SEC. 208. GAO STUDY AND REPORT.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study of—

(1) the adequacy of the scope of coverage provided under flood insurance policies in meeting the intended goal of Congress that flood victims be restored to their pre-flood conditions, and any recommendations to ensure that goal is being met;

(2) the adequacy of payments to flood victims under flood insurance policies; and

(3) the practices of the Federal Emergency Management Agency and insurance adjusters in estimating losses incurred during a flood, and how such practices affect the adequacy of payments to flood victims.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report regarding the results of the study under subsection (a).

#### SEC. 209. PROSPECTIVE PAYMENT OF FLOOD INSURANCE PREMIUMS.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:

“(f) **ADJUSTMENT OF PREMIUM.**—Notwithstanding any other provision of law, if the Director determines that the holder of a flood insurance policy issued under this Act is paying a lower premium than is required under this section due to an error in the flood plain determination, the Director may only prospectively charge the higher premium rate.”.

#### SEC. 210. REPORT ON CHANGES TO FEE SCHEDULE OR FEE PAYMENT ARRANGEMENTS.

Not later than 3 months after the date of enactment of this Act, the Director shall submit a report on any changes or modifications made to the fee schedule or fee payment arrangements between the Federal Emergency Management Agency and insurance adjusters who provide services with respect to flood insurance policies to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

Mr. SHELBY. Mr. President, I would first like to acknowledge the leadership of Senator BUNNING in crafting this legislation. In addition, several members of the Banking Committee, from both sides of the aisle, are cosponsors on S. 2238. The Banking Committee unanimously voted to favorably report S. 2238 on March 30, 2004. This has truly been a bipartisan effort.

This is important legislation that will go a long way in bringing the flood insurance fund toward financial soundness, while protecting existing property owners. The pilot program established in Section 102 will help to address the mitigation of severe repetitive loss properties. These properties, while only a small percentage of insured properties, constitute a large share of claims paid. FEMA estimates that while repetitive loss properties only account for approximately 1 percent of all insured properties, these properties account for over 30 percent of amounts paid in claims. In addition, most of these properties were constructed before the development of flood insurance rate maps, and are paying subsidized rates for flood insurance.

S. 2238 provides an additional \$40 million annually for mitigation activities. This additional funding will allow families that have lived through several floods and suffered substantial harm, both financial and emotional, to either flood-proof their home or have their home bought-out.

I also want to commend Senator SARBANES for his efforts. Title II of S. 2238 is largely his creation. I believe Title II will ensure that families displaced by floods receive adequate and timely assistance.

The managers' amendment to S. 2238 represents several technical and conforming changes. First the definition of repetitive loss property is narrowed. This change was made to assure concerned parties that the pilot program would be targeted at those properties that have indeed suffered the greatest

losses. The managers' amendment also clarifies the funding allocation of the additional mitigation dollars that will be provided under the pilot program. A more explicit allocation is needed to insure that those States hit hardest by flooding receive an adequate flow of funding. The managers' amendment also extends the pilot program and the National Flood Insurance Program until September 30, 2009.

Mr. SARBANES. Mr. President, I support the passage of S. 2238, as amended, and want to urge my colleagues to support this critical legislation which ensures the continuation of the National Flood Insurance Program, which covers over 4.4 million properties around the country. Unless we quickly act to reauthorize this program, it will expire at the end of this month. In addition to extending the National Flood Insurance Program for 5 years, this bill establishes a loss mitigation pilot program to help mitigate flood risks for properties that have been flooded numerous times.

This bill has been drafted in a bipartisan manner, and I particularly want to thank Senators BUNNING and SHELBY for working collaboratively with me to craft this legislation and also for accepting my amendment which makes a number of administrative changes to the National Flood Insurance Program designed to strengthen the program and ensure that flood victims can fairly and adequately recover for flood losses. While Federal flood insurance was created almost 40 years ago to "provide the necessary funds promptly to assure rehabilitation or restoration of damaged property to pre-flood status or to permit comparable investment elsewhere," unfortunately, the program is not working as Congress envisioned. Recent flooding in Maryland as a result of Hurricane Isabel in September 2003, showed that under the strain of a major flooding event, the National Flood Insurance Program was unable to withstand the pressure. Unfortunately, many of the 6,000 Marylanders who filed claims after Hurricane Isabel found the process of recovering under their flood insurance policies to be difficult, time-consuming and frustrating. Too many victims were given incomplete or inaccurate information or were coerced into settling claims that came nowhere near close to providing adequate funding for repairs.

My amendment, as contained in this bill, ensures that policyholders are provided with accurate and timely information about their policies as well as what to do in the event of a flood. As a result of this legislation, FEMA will be required to establish a formal appeals process for complaints; disseminate a claims handbook so that families know exactly what to do if they are flooded; provide simple forms and disclosures so that all policyholders know what coverages are available and what coverages they are purchasing; and, establish minimum agent training

requirements so that insurance agents, the main points of contact for flood victims, have a better understanding of this program. In addition, this bill asks the General Accounting Office of conduct a thorough review of the flood insurance program, with particular emphasis on limitations in the flood insurance policy and FEMA's interpretations of this policy. We need to have a detailed understanding of what these limitations are and what the consequences are of broadening coverage. As a result of these changes, I am hopeful that flood victims around the country will not face the same obstacles to receiving fair payments as Marylanders faced last year.

In addition to the administrative changes we are making in this bill, I have been working with my colleague, Senator MIKULSKI, and FEMA to ensure that FEMA does all it can to improve its processes and policies so that flood victims can better navigate the flood insurance program and more fairly settle their claims. I believe that FEMA is working to fix those problems that were brought to its attention, and I want to thank Mr. Anthony Lowe, former Federal insurance administrator, and Mr. Trey Reid, acting insurance administrator, who now oversees the program, for working with me and my colleagues to go back and make sure that Hurricane Isabel flood victims are treated fairly. After Hurricane Isabel, I received numerous complaints that flood victims were pressured into accepting settlements far below what they consider fair, in addition to our findings that FEMA distributed inaccurate price guidelines for the costs of repairs. When confronted with these issues, Mr. Lowe, Mr. Reid, and FEMA staff quickly responded. Letters have now been sent to all flood victims who believe they were treated unfairly can have their claims reviewed. While I appreciate these efforts, I understand that there is some concern that these reviews are not being conducted in an independent way, and I have urged FEMA to take all actions to ensure that this process is fair. The process of reviewing these claims is a fair and necessary step in maintaining the integrity of the National Flood Insurance Program, and I will continue working with FEMA to ensure that all victims are able to have their claims reviewed in an unbiased manner.

This is an important piece of legislation. In addition to the changes contained in my amendment, this bill will help to strengthen and stabilize the flood insurance program by providing \$40 million a year to states and communities to mitigate flood risks. While the National Flood Insurance Program has primarily been able to cover losses through the premiums it collects, there have been times when it has had to borrow funds from the Treasury, and this is in large part due to a relatively small number of properties. According to FEMA, these repetitive loss properties account for only 1 percent of

policies, but over 35 percent of all losses in the flood insurance program. This bill makes funding available so that communities can assist families who are stuck in a cycle of repeated flooding to get out of harm's way, and so that these properties are less of a drain on the National Flood Insurance Program.

Once again, I thank Senators SHELBY and BUNNING for working with me in such a collaborative manner on this bill.

Mr. NELSON of Florida. Mr. President, I commend Senators SHELBY, SARBANES, and BUNNING for their efforts in drafting the S. 2238, the Bunning/Bereuter/Blumenauer Flood Insurance Reform Act. They have worked with Senator GRAHAM and me to make some important changes that will greatly benefit Federal flood insurance policy holders. Since 1968, the National Flood Insurance Program has provided reasonably priced insurance to Americans across the country. In Florida alone, there are approximately 2 million flood insurance policies.

I support this legislation and, as the former elected insurance commissioner of the State of Florida, appreciate its goals and purpose. However, I have a unique situation in Florida dealing with flood insurance and would like to take a few minutes to bring it to my colleagues' attention.

There is a community in Gulf County in North Florida known as Cape San Blas. The area has some of the most impressive, pristine beaches in the State. You can see the unique physical characteristics of the Cape quite clearly from space—it is a swath of land that juts out into the Gulf of Mexico.

Most of the residents of Cape San Blas have lived there for some time and have seen first hand the incredible damage and awesome forces of nature brought to bear by hurricanes. And ere we are today, 2 weeks into hurricane season and a good number of the residents of the Cape either do not have flood insurance or have to purchase it at a very high price.

Since 1983, most of Cape San Blas has been included in the Coastal Barrier Resources System, which prevents the Cape from receiving many forms of Federal assistance, most notably flood insurance. But the residents made due by other means, relying on the private market or, in some cases, simply not purchasing flood insurance because it was not a requirement at the time.

Back in 1995, after Hurricane Opal tore through parts of the Florida panhandle, the Federal Emergency Management Agency, FEMA, determined its flood maps required revisions. The agency decided it would need to remap the area and began the process. The new maps took effect in November 2002 and placed a large portion of the Cape and the surrounding area in a special flood hazard area—an area of land that has a 1 percent chance of being flooded in any given year. A home located



within this area has a 26 percent chance of suffering flood damage during the term of a 30-year mortgage.

The special flood hazard area designation has had a devastating effect on the local economy for several reasons. First, under the Flood Disaster Protection Act of 1973 mandates flood insurance for property in a special flood hazard area that receives a federally backed loan. If a local bank writes a home loan, without Federal backing, while the bank may not require flood insurance, it does face a safety and soundness issue and possible enforcement action with federal banking regulators for offering high-risk loans.

As a result of the new classification, some residents who never had to carry flood insurance before suddenly found it was a requirement. Many long-time homeowners have been forced to scramble to buy private flood insurance, often at very high rates. Some are also prevented from borrowing against their hard-earned equity, because second mortgages also require hard-to-obtain flood insurance. Local banks have had to turn away homeowners because of this.

The new maps and classification have had a devastating effect on homeowners and the local economy already weakened by the closure of a paper mill and saddled with high rates of unemployment. With the stroke of a pen, FEMA radically changed the lives of thousands of residents and property owners in Cape San Blas. On the Cape, prior to FEMA's new maps, about 70 percent of the lands were not in special flood zone areas and financing was easily obtainable. The new maps placed approximately 75 percent of the Cape in a special flood hazard area and financing is near impossible. Even worse, the new flood maps have slowed the new economic engine of the Cape—tourism, construction and development.

This is a clear case of a Government action adversely affecting the lives of citizens. It is simply unfair. There must be a way to make the residents whole again, and I think we have a responsibility to explore every possible avenue to do so. I had considered legislative remedies for the residents of Cape San Blas on the flood insurance bill. Yet I am very aware the flood insurance program is set to expire in 15 days and do not want to block the passage of this legislation, which is so critical to Florida and the Nation. But in the coming weeks, I intend to work with my colleagues and the Banking and Environment and Public Works Committees, with Congressman ALLEN BOYD, who represents Cape San Blas, and the appropriate Federal agencies to find an equitable solution to the problem facing the residents of Cape San Blas.

Ms. LANDRIEU. Mr. President, I am pleased to see that the Senate will reauthorize the National Flood Insurance program today. This is such an important program for the people of Louisiana.

If there is a theme that runs through the social and economic history of my State, it is water. The Mississippi River, with its great southern port of New Orleans, has been a center of commerce and an economic gateway to the east. Smaller rivers, streams, and bayous run throughout our parishes. More than 8,277 square miles of Louisiana are covered by water, nearly 16 percent. The entire southern third of my State could be called a giant wetland, much of it below sea level, including the city of New Orleans.

Floods are a part of life in Louisiana, particularly in the southern part of the State. Louisiana has more than 377,000 insured properties under the program as of 2003. That same year the program paid nearly 6,000 flood loss claims in Louisiana. The National Flood Insurance Program allows Louisianians to stay in their homes and protects them from the devastation nature can wreak.

The flood program gives the housing, insurance, banking, and mortgage lending markets in my State greater stability. It also brings peace of mind to those families who need the program to protect their most important assets: their homes and businesses.

However, when this reauthorization bill was reported out of the Banking Committee, I had deep concerns about a pilot program contained in the bill designed to address severe repetitive loss properties. These are properties that experience a lot of flooding. The Federal Emergency Management Agency estimates that these repetitive loss properties, while only making up about one percent of all the insured properties, cost the program \$200 million annually. Some property owners have collected flood claims that are four or five times higher than the actual value of the property. They refuse to take any action to minimize the cost to the program and benefit from subsidized insurance rates.

Under the pilot program, \$40 million in funding would be available on an optional basis for States and communities to take steps to mitigate the flood damage potential on these properties. If a property owner receives a mitigation offer and turns it down, their flood insurance premiums would increase 50 percent, and would keep on increasing by 50 percent until it reached the actuarial rate for the property. This provision would help prevent some of the abuse in the program.

Louisiana has the most repetitive loss properties in the country, about one-third of the total number nationwide. I had concerns about how this pilot program would impact low income property owners in my State and so I put a hold on the bill. I felt that even though State and local communities could opt into the program, they would not have as much control over how the program would get funding to property owners that want mitigation. FEMA held all the cards.

Let me give an example of what I mean. Under the original bill, FEMA

would award mitigation funds based upon what it felt was in the best interest of the flood insurance program. I believed that this gave FEMA the power to overrule local determinations of what kind of flood mitigation to offer and what properties to mitigate. For example, a local community that wanted to elevate a structure above the base flood elevation could be denied relief because FEMA decided that buyouts were in the best interest of the flood insurance program in order to permanently remove properties out of the flood insurance program altogether.

The impact this could have on property owners could be devastating. I did not want to see low-income people facing a terrible choice: sell your property or see your rates go up. Many of these families have lived on this land for generations. It may flood regularly, but it is also home. I wanted to make sure the pilot program struck a proper balance between the needs of the flood insurance program and the rights of property owners.

The chairman and ranking member of the Banking Committee, Senators SHELBY and SARBANES, and myself worked together to make changes to the bill that I believe have achieved this balance. The changes keep the pilot program in place but add safeguards requiring FEMA to pay greater deference to local decisions about what properties to mitigate and what kinds of mitigation offers are most appropriate. We added demolition and rebuild as an additional eligible mitigation activity under the bill, an option that Louisiana's flood plain managers wanted. We also included a funding formula that insures that Louisiana gets its fair share of funding under the pilot program. Under FEMA's current mitigation program, Louisiana only received about \$1 million even though the State had more than \$60 million in need.

I thank Chairman SHELBY and the ranking member of the Banking Committee, Senator SARBANES, as well as their staffs for their willingness to work with me on these changes. We have made this important bill a better deal for local communities in my State and across the country.

Mr. WARNER. My understanding is it is cleared on both sides. I ask unanimous consent that the amendment at the desk be agreed to, the committee amendments be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3451) was agreed to, as follows:

(Purpose: To make technical and conforming amendments)

On page 2, line 3, strike "Flood Insurance Reform Act of 2004" and insert "Bunning-Be-reuter-Blumenaur Flood Insurance Reform Act of 2004".

On page 7, line 6, insert “that decide to participate in the pilot program established under this section” after “communities”.

On page 7, line 20, strike “3” and insert “4”.

On page 7, line 24, strike “\$3,000” and insert “\$5,000”.

On page 7, line 26, strike “\$15,000” and insert “\$20,000”.

On page 8, line 19, strike “1 foot above”.

On page 8, line 22, strike “(f)” and insert “(g)”.

On page 8, line 25, strike “1-year period” and insert “fiscal year”.

On page 10, between lines 13 and 14, insert the following:

“(e) NOTICE OF MITIGATION PROGRAM.—

“(1) IN GENERAL.—Upon selecting a State or community to receive assistance under subsection (a) to carry out eligible activities, the Director shall notify the owners of a severe repetitive loss property, in plain language, within that State or community—

“(A) that their property meets the definition of a severe repetitive loss property under this section;

“(B) that they may receive an offer of assistance under this section;

“(C) of the types of assistance potentially available under this section;

“(D) of the implications of declining such offer of assistance under this section; and

“(E) that there is a right to appeal under this section.

“(2) IDENTIFICATION OF SEVERE REPETITIVE LOSS PROPERTIES.—The Director shall take such steps as are necessary to identify severe repetitive loss properties, and submit that information to the relevant States and communities.

On page 10, line 14, strike “(e)” and insert “(f)”.

On page 10, line 23, insert “, in a manner consistent with the allocation formula under paragraph (5)” after “time”.

On page 11, between lines 3 and 4, insert the following:

“(3) CONSULTATION.—In determining for which eligible activities under subsection (c) to provide assistance with respect to a severe repetitive loss property, the relevant States and communities shall consult, to the extent practicable, with the owner of the property.

“(4) DEFERENCE TO LOCAL MITIGATION DECISIONS.—The Director shall not, by rule, regulation, or order, establish a priority for funding eligible activities under this section that gives preference to one type or category of eligible activity over any other type or category of eligible activity.

“(5) ALLOCATION.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the total amount made available for assistance under this section in any fiscal year, the Director shall allocate assistance to a State, and the communities located within that State, based upon the percentage of the total number of severe repetitive loss properties located within that State.

“(B) REDISTRIBUTION.—Any funds allocated to a State, and the communities within the State, under subparagraph (A) that have not been obligated by the end of each fiscal year shall be redistributed by the Director to other States and communities to carry out eligible activities in accordance with this section.

“(C) EXCEPTION.—Of the total amount made available for assistance under this section in any fiscal year, 10 percent shall be made available to communities that—

“(i) contain one or more severe repetitive loss properties; and

“(ii) are located in States that receive little or no assistance, as determined by the Director, under the allocation formula under subparagraph (A).

On page 11, line 4, strike “(3)” and insert “(6)”.

On page 11, line 9, strike “(f)” and insert “(g)”.

On page 13, line 3, strike “(g)” and insert “(h)”.

On page 16, line 11, strike “historic places” and insert “Historic Places”.

On page 16, after line 25, insert the following:

“(vi) The owner of the property, based on independent information, such as contractor estimates or other appraisals, demonstrates that an alternative eligible activity under subsection (c) is at least as cost effective as the initial offer of assistance.

On page 17, line 22, strike “that the grounds” and insert “in favor of the property owner”.

On page 17, line 24, strike “make a determination of how much to” and insert “require the Director to”.

On page 18, lines 4 through 6, strike “and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount” and insert “to the amount paid prior to the offer to take action under paragraph (1) or (2) of subsection (c)”.

On page 19, line 6, strike “Flood” and insert “Bunning-Bereuter-Blumenaur Flood”.

On page 19, line 16, strike “(h)” and insert “(i)”.

On page 20, between lines 2 and 3, insert the following:

“(j) RULES.—

“(1) IN GENERAL.—The Director shall, by rule—

“(A) subject to subsection (f)(4), develop procedures for the distribution of funds to States and communities to carry out eligible activities under this section; and

“(B) ensure that the procedures developed under paragraph (1)—

“(i) require the Director to notify States and communities of the availability of funding under this section, and that participation in the pilot program under this section is optional;

“(ii) provide that the Director may assist States and communities in identifying severe repetitive loss properties within States or communities;

“(iii) allow each State and community to select properties to be the subject of eligible activities, and the appropriate eligible activity to be performed with respect to each severe repetitive loss property; and

“(iv) require each State or community to submit a list of severe repetitive loss properties to the Director that the State or community would like to be the subject of eligible activities under this section.

“(2) CONSULTATION.—Not later than 90 days after the date of enactment of this Act, the Director shall consult with State and local officials in carrying out paragraph (1)(A), and provide an opportunity for an oral presentation, on the record, of data and arguments from such officials.

On page 20, line 3, strike “(i)” and insert “(k)”.

On page 20, line 7, strike “2004,”.

On page 20, line 8, strike “and 2008” and insert “2008, and 2009”.

On page 20, line 19, strike “section 1361A” and insert “this section”.

On page 20, line 20, strike “(j)” and insert “(l)”.

On page 20, line 22, strike “2008” and insert “2009”.

On page 22, line 12, strike “(m)” and insert “(l)”.

On page 22, strike line 21 and all that follows through page 23, line 3, and insert the following:

(d) FUNDING.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding \$40,000,000, to remain available until expended;”;

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

“(c) ADMINISTRATIVE EXPENSES.—The Director may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the Director to make grants and provide assistance under sections 1366 and 1323.”.

The committee amendments were agreed to.

The bill (S. 2238), as amended, was read the third time and passed, as follows:

S. 2238

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Bunning-Bereuter-Blumenaur Flood Insurance Reform Act of 2004”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Congressional findings.

## TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

Sec. 101. Extension of program and consolidation of authorizations.

Sec. 102. Establishment of pilot program for mitigation of severe repetitive loss properties.

Sec. 103. Amendments to existing flood mitigation assistance program.

Sec. 104. FEMA authority to fund mitigation activities for individual repetitive claims properties.

Sec. 105. Amendments to additional coverage for compliance with land use and control measures.

Sec. 106. Actuarial rate properties.

Sec. 107. Geospatial digital flood hazard data.

Sec. 108. Replacement of mobile homes on original sites.

Sec. 109. Reiteration of FEMA responsibility to map mudslides.

## TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Definitions.

Sec. 202. Supplemental forms.

Sec. 203. Acknowledgement form.

Sec. 204. Flood insurance claims handbook.

Sec. 205. Appeal of decisions relating to flood insurance coverage.

Sec. 206. Study and report on use of cost compliance coverage.

Sec. 207. Minimum training and education requirements.

Sec. 208. GAO study and report.

Sec. 209. Prospective payment of flood insurance premiums.

Sec. 210. Report on changes to fee schedule or fee payment arrangements.

## SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the national flood insurance program—

(A) identifies the flood risk;

(B) provides flood risk information to the public;

(C) encourages State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses; and

(D) makes flood insurance available on a nationwide basis that would otherwise not be



available, to accelerate recovery from floods, mitigate future losses, save lives, and reduce the personal and national costs of flood disasters;

(2) the national flood insurance program insures approximately 4,400,000 policyholders;

(3) approximately 48,000 properties currently insured under the program have experienced, within a 10-year period, 2 or more flood losses where each such loss exceeds the amount \$1,000;

(4) approximately 10,000 of these repetitive-loss properties have experienced either 2 or 3 losses that cumulatively exceed building value or 4 or more losses, each exceeding \$1,000;

(5) repetitive-loss properties constitute a significant drain on the resources of the national flood insurance program, costing about \$200,000,000 annually;

(6) repetitive-loss properties comprise approximately 1 percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses;

(7) the vast majority of repetitive-loss properties were built before local community implementation of floodplain management standards under the program and thus are eligible for subsidized flood insurance;

(8) while some property owners take advantage of the program allowing subsidized flood insurance without requiring mitigation action, others are trapped in a vicious cycle of suffering flooding, then repairing flood damage, then suffering flooding, without the means to mitigate losses or move out of harm's way;

(9) mitigation of repetitive-loss properties through buyouts, elevations, relocations, or flood-proofing will produce savings for policyholders under the program and for Federal taxpayers through reduced flood insurance losses and reduced Federal disaster assistance;

(10) a strategy of making mitigation offers aimed at high-priority repetitive-loss properties and shifting more of the burden of recovery costs to property owners who choose to remain vulnerable to repetitive flood damage can encourage property owners to take appropriate actions that reduce loss of life and property damage and benefit the financial soundness of the program;

(11) the method for addressing repetitive-loss properties should be flexible enough to take into consideration legitimate circumstances that may prevent an owner from taking a mitigation action; and

(12) focusing the mitigation and buy-out of repetitive loss properties upon communities and property owners that choose to voluntarily participate in a mitigation and buy-out program will maximize the benefits of such a program, while minimizing any adverse impact on communities and property owners.

#### TITLE I—AMENDMENTS TO FLOOD INSURANCE ACT OF 1968

##### SEC. 101. EXTENSION OF PROGRAM AND CONSOLIDATION OF AUTHORIZATIONS.

(a) **BORROWING AUTHORITY.**—The first sentence of section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), is amended by striking “through December” and all that follows through “, and” and inserting “through the date specified in section 1319, and”.

(b) **AUTHORITY FOR CONTRACTS.**—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026), is amended by striking “after” and all that follows and inserting “after September 30, 2008.”.

(c) **EMERGENCY IMPLEMENTATION.**—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)), is amended by striking “during the period” and all that fol-

lows through “in accordance” and inserting “during the period ending on the date specified in section 1319, in accordance”.

(d) **AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.**—Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)), is amended by striking “through” and all that follows and inserting “through the date specified in section 1319, for studies under this title.”.

##### SEC. 102. ESTABLISHMENT OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) **IN GENERAL.**—The National Flood Insurance Act of 1968 is amended by inserting after section 1361 (42 U.S.C. 4102) the following:

###### “SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

“(a) **AUTHORITY.**—To the extent amounts are made available for use under this section, the Director may, subject to the limitations of this section, provide financial assistance to States and communities that decide to participate in the pilot program established under this section for taking actions with respect to severe repetitive loss properties (as such term is defined in subsection (b)) to mitigate flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

“(b) **SEVERE REPETITIVE LOSS PROPERTY.**—For purposes of this section, the term ‘severe repetitive loss property’ has the following meaning:

“(1) **SINGLE-FAMILY PROPERTIES.**—In the case of a property consisting of 1 to 4 residences, such term means a property that—

“(A) is covered under a contract for flood insurance made available under this title; and

“(B) has incurred flood-related damage—

“(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

“(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

“(2) **MULTIFAMILY PROPERTIES.**—In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director shall by regulation provide.

“(c) **ELIGIBLE ACTIVITIES.**—Amounts provided under this section to a State or community may be used only for the following activities:

“(1) **MITIGATION ACTIVITIES.**—To carry out mitigation activities that reduce flood damages to severe repetitive loss properties, including elevation, relocation, demolition, and floodproofing of structures, and minor physical localized flood control projects, and the demolition and rebuilding of properties to at least Base Flood Elevation or greater, if required by any local ordinance.

“(2) **PURCHASE.**—To purchase severe repetitive loss properties, subject to subsection (g).

“(d) **MATCHING REQUIREMENT.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), in any fiscal year the Director may not provide assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds for carrying out the eligible activities to be funded with such assistance amounts.

“(2) **REDUCED COMMUNITY MATCH.**—With respect to any 1-year period in which assistance is made available under this section, the Director may adjust the contribution re-

quired under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

“(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

“(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.

“(3) **NON-FEDERAL FUNDS.**—For purposes of this subsection, the term ‘non-Federal funds’ includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the eligible activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

“(e) **NOTICE OF MITIGATION PROGRAM.**—

“(1) **IN GENERAL.**—Upon selecting a State or community to receive assistance under subsection (a) to carry out eligible activities, the Director shall notify the owners of a severe repetitive loss property, in plain language, within that State or community—

“(A) that their property meets the definition of a severe repetitive loss property under this section;

“(B) that they may receive an offer of assistance under this section;

“(C) of the types of assistance potentially available under this section;

“(D) of the implications of declining such offer of assistance under this section; and

“(E) that there is a right to appeal under this section.

“(2) **IDENTIFICATION OF SEVERE REPETITIVE LOSS PROPERTIES.**—The Director shall take such steps as are necessary to identify severe repetitive loss properties, and submit that information to the relevant States and communities.

“(f) **STANDARDS FOR MITIGATION OFFERS.**—The program under this section for providing assistance for eligible activities for severe repetitive loss properties shall be subject to the following limitations:

“(1) **PRIORITY.**—In determining the properties for which to provide assistance for eligible activities under subsection (c), the Director shall provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time, in a manner consistent with the allocation formula under paragraph (5).

“(2) **OFFERS.**—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties to take eligible activities under subsection (c) as soon as practicable.

“(3) **CONSULTATION.**—In determining for which eligible activities under subsection (c) to provide assistance with respect to a severe repetitive loss property, the relevant States and communities shall consult, to the extent practicable, with the owner of the property.

“(4) **DEFERENCE TO LOCAL MITIGATION DECISIONS.**—The Director shall not, by rule, regulation, or order, establish a priority for funding eligible activities under this section that gives preference to one type or category of eligible activity over any other type or category of eligible activity.

“(5) **ALLOCATION.**—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the total amount made available for assistance under this section in any fiscal year, the Director shall allocate assistance to a State, and the communities located within that State, based upon the percentage of the total number of severe repetitive loss properties located within that State.

“(B) REDISTRIBUTION.—Any funds allocated to a State, and the communities within the State, under subparagraph (A) that have not been obligated by the end of each fiscal year shall be redistributed by the Director to other States and communities to carry out eligible activities in accordance with this section.

“(C) EXCEPTION.—Of the total amount made available for assistance under this section in any fiscal year, 10 percent shall be made available to communities that—

“(i) contain one or more severe repetitive loss properties; and

“(ii) are located in States that receive little or no assistance, as determined by the Director, under the allocation formula under subparagraph (A).

“(6) NOTICE.—Upon making an offer to provide assistance with respect to a property for any eligible activity under subsection (c), the State or community shall notify each holder of a recorded interest on the property of such offer and activity.

“(g) PURCHASE OFFERS.—A State or community may take action under subsection (c)(2) to purchase a severe repetitive loss property only if the following requirements are met:

“(1) USE OF PROPERTY.—The State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b).

“(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties and of associated land to engage in eligible activities as soon as possible.

“(3) PURCHASE PRICE.—The amount of purchase offer is not less than the greatest of—

“(A) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

“(B) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

“(C) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property, or an amount equal to the current fair market value of the property.

“(4) COMPARABLE HOUSING PAYMENT.—If a purchase offer made under paragraph (2) is less than the cost of the homeowner-occupant to purchase a comparable replacement dwelling outside the flood hazard area in the same community, the Director shall make available an additional relocation payment to the homeowner-occupant to apply to the difference.

“(h) INCREASED PREMIUMS IN CASES OF REFUSAL TO MITIGATE.—

“(1) IN GENERAL.—In any case in which the owner of a severe repetitive loss property refuses an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property, the Director shall—

“(A) notify each holder of a recorded interest on the property of such refusal; and

“(B) notwithstanding subsections (a) through (c) of section 1308, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time that the offer was made, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to paragraph (2) and subject to the limitation under paragraph (3).

“(2) INCREASED PREMIUMS UPON SUBSEQUENT FLOOD DAMAGE.—Notwithstanding subsections (a) through (c) of section 1308, if the owner of a severe repetitive loss property does not accept an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property and a claim payment exceeding \$1,500 is made under flood insurance coverage under this title for damage to the property caused by a flood event occurring after such offer is made, thereafter the chargeable premium rate with respect to the property shall be the amount equal to 150 percent of the chargeable rate for the property at the time of such flood event, as adjusted by any other premium adjustments otherwise applicable to the property and any subsequent increases pursuant to this paragraph and subject to the limitation under paragraph (3).

“(3) LIMITATION ON INCREASED PREMIUMS.—In no case may the chargeable premium rate for a severe repetitive loss property be increased pursuant to this subsection to an amount exceeding the applicable estimated risk premium rate for the area (or subdivision thereof) under section 1307(a)(1).

“(4) TREATMENT OF DEDUCTIBLES.—Any increase in chargeable premium rates required under this subsection for a severe repetitive loss property may be carried out, to the extent appropriate, as determined by the Director, by adjusting any deductible charged in connection with flood insurance coverage under this title for the property.

“(5) NOTICE OF CONTINUED OFFER.—Upon each renewal or modification of any flood insurance coverage under this title for a severe repetitive loss property, the Director shall notify the owner that the offer made pursuant to subsection (c) is still open.

“(6) APPEALS.—

“(A) IN GENERAL.—Any owner of a severe repetitive loss property may appeal a determination of the Director to take action under paragraph (1)(B) or (2) with respect to such property, based only upon the following grounds:

“(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

“(ii) Based on independent information, such as contractor estimates or appraisals, the property owner believes that the price offered for purchasing the property is not an accurate estimation of the value of the property, or the amount of Federal funds offered for mitigation activities, when combined with funds from non-Federal sources, will not cover the actual cost of mitigation.

“(iii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places will be interfered with, impaired, or disrupted.

“(iv) The flooding that resulted in the flood insurance claims described in subsection (b)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

“(v) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

“(vi) The owner of the property, based on independent information, such as contractor estimates or other appraisals, demonstrates that an alternative eligible activity under subsection (c) is at least as cost effective as the initial offer of assistance.

“(B) PROCEDURE.—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1)(B) or (2), as applicable.

“(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

“(i) if a final determination is made in favor of the property owner under subparagraph (A) exist, the third party hearing such appeal shall require the Director to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1)(B) or (2) to the amount paid prior to the offer to take action under paragraph (1) or (2) of subsection (c); and

“(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1)(B) or (2), as applicable, and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

“(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

“(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

“(ii) by the National Flood Insurance Fund, if such final determination is that the grounds under subparagraph (A) do exist.

“(E) REPORT.—Not later than 6 months after the date of the enactment of the Bunning-Bereuter-Blumenaur Flood Insurance Reform Act of 2004, the Director shall submit a report describing the rules, procedures, and administration for appeals under this paragraph to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Financial Services of the House of Representatives.

“(i) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a severe repetitive loss property, the Director may—

“(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

“(2) refuse to renew the policy with such policyholder upon expiration and deny the

provision of any new flood insurance coverage under this title to such policyholder for the property.

“(j) RULES.—

“(1) IN GENERAL.—The Director shall, by rule—

“(A) subject to subsection (f)(4), develop procedures for the distribution of funds to States and communities to carry out eligible activities under this section; and

“(B) ensure that the procedures developed under paragraph (1)—

“(i) require the Director to notify States and communities of the availability of funding under this section, and that participation in the pilot program under this section is optional;

“(ii) provide that the Director may assist States and communities in identifying severe repetitive loss properties within States or communities;

“(iii) allow each State and community to select properties to be the subject of eligible activities, and the appropriate eligible activity to be performed with respect to each severe repetitive loss property; and

“(iv) require each State or community to submit a list of severe repetitive loss properties to the Director that the State or community would like to be the subject of eligible activities under this section.

“(2) CONSULTATION.—Not later than 90 days after the date of enactment of this Act, the Director shall consult with State and local officials in carrying out paragraph (1)(A), and provide an opportunity for an oral presentation, on the record, of data and arguments from such officials.

“(k) FUNDING.—

“(1) IN GENERAL.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years 2005, 2006, 2007, 2008, and 2009, except that the amount so used in each such fiscal year may not exceed \$40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

“(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under this subsection, the Director may use up to 5 percent for expenses associated with the administration of this section.

“(l) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2009.”

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (7), by striking “and” at the end; and

(2) by striking paragraph (8) and inserting the following:

“(8) for financial assistance under section 1361A to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 1361A(i); and”.

#### SEC. 103. AMENDMENTS TO EXISTING FLOOD MITIGATION ASSISTANCE PROGRAM.

(a) STANDARD FOR APPROVAL OF MITIGATION PLANS.—Section 1366(e)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following new sentence: “The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund.”

(b) PRIORITY FOR MITIGATION ASSISTANCE.—Section 1366(e) of the National Flood Insurance

Act of 1968 (42 U.S.C. 4104c) is amended by striking paragraph (4) and inserting the following:

“(4) PRIORITY FOR MITIGATION ASSISTANCE.—In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to such properties, or to such subsets of such properties as the Director may establish, that the Director determines are in the best interests of the National Flood Insurance Fund and for which matching amounts under subsection (f) are available.”

(c) COORDINATION WITH STATES AND COMMUNITIES.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following:

“(m) COORDINATION WITH STATES AND COMMUNITIES.—The Director shall, in consultation and coordination with States and communities take such actions as are appropriate to encourage and improve participation in the national flood insurance program of owners of properties, including owners of properties that are not located in areas having special flood hazards (the 100-year flood plain), but are located within flood prone areas.”

(d) FUNDING.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding \$40,000,000, to remain available until expended;”

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

“(c) ADMINISTRATIVE EXPENSES.—The Director may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the Director to make grants and provide assistance under sections 1366 and 1323.”

(e) REDUCED COMMUNITY MATCH.—Section 1366(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(g)), is amended—

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) REDUCED COMMUNITY MATCH.—With respect to any 1-year period in which assistance is made available under this section, the Director may adjust the contribution required under paragraph (1) by any State, and for the communities located in that State, to not less than 10 percent of the cost of the activities for each severe repetitive loss property for which grant amounts are provided if, for such year—

“(A) the State has an approved State mitigation plan meeting the requirements for hazard mitigation planning under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165) that specifies how the State intends to reduce the number of severe repetitive loss properties; and

“(B) the Director determines, after consultation with the State, that the State has taken actions to reduce the number of such properties.”

(f) NATIONAL FLOOD MITIGATION FUND.—Section 1366(b)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(b)(2)), is amended by striking “\$1,500,000” and inserting “7.5 percent of the available funds under this section”.

#### SEC. 104. FEMA AUTHORITY TO FUND MITIGATION ACTIVITIES FOR INDIVIDUAL REPETITIVE CLAIMS PROPERTIES.

(a) IN GENERAL.—Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et

seq.) is amended by adding at the end the following:

#### “SEC. 1323. GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.

“(a) IN GENERAL.—The Director may provide funding for mitigation actions that reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage under this title, but only if the Director determines that—

“(1) such activities are in the best interest of the National Flood Insurance Fund; and

“(2) such activities cannot be funded under the program under section 1366 because—

“(A) the requirements of section 1366(g) are not being met by the State or community in which the property is located; or

“(B) the State or community does not have the capacity to manage such activities.

“(b) PRIORITY FOR WORST-CASE PROPERTIES.—In determining the properties for which funding is to be provided under this section, the Director shall consult with the States in which such properties are located and provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.”

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended by adding at the end the following:

“(9) for funding, not to exceed \$10,000,000 in any fiscal year, for mitigation actions under section 1323, except that, notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.”

#### SEC. 105. AMENDMENTS TO ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—Section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “compliance” and inserting “implementing measures that are consistent”; and

(B) by inserting “by the community” after “established”;

(2) in paragraph (2), by striking “have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and” and inserting “are substantially damaged structures;”

(3) in paragraph (3), by striking “compliance with land use and control measures.” and inserting “the implementation of such measures; and”; and

(4) by inserting after paragraph (3) and before the last undesignated paragraph the following:

“(4) properties for which an offer of mitigation assistance is made under—

“(A) section 1366 (Flood Mitigation Assistance Program);

“(B) section 1368 (Repetitive Loss Priority Program and Individual Priority Property Program);

“(C) the Hazard Mitigation Grant Program authorized under section 404 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5170c);

“(D) the Predisaster Hazard Mitigation Program under section 203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5133); and

“(E) any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.”

(b) DEFINITIONS.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) by striking paragraph (7) and inserting the following:

“(7) the term ‘repetitive loss structure’ means a structure covered by a contract for flood insurance that—

“(A) has incurred flood-related damage on 2 occasions, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event; and

“(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.”;

(2) in paragraph (13), by striking “and” at the end;

(3) in paragraph (14), by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(15) the term ‘substantially damaged structure’ means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the Director, or by a community ordinance, whichever is lower.”.

#### SEC. 106. ACTUARIAL RATE PROPERTIES.

(a) IN GENERAL.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by striking subsection (c) and inserting the following:

“(c) ACTUARIAL RATE PROPERTIES.—Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

“(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

“(2) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.”.

(b) INAPPLICABILITY OF ANNUAL LIMITATIONS ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended by striking “Notwithstanding” and inserting “Except with respect to properties described under paragraph (2) or (3) of subsection (c), and notwithstanding”.

#### SEC. 107. GEOSPATIAL DIGITAL FLOOD HAZARD DATA.

For the purposes of flood insurance and floodplain management activities conducted pursuant to the National Flood Insurance Program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), geospatial digital flood hazard data distributed by the Federal Emergency Management Agency, or its designee, or the printed products derived from that data, are interchangeable and legally equivalent for the determination of the location of 1 in 100 year and 1 in 500 year flood planes, provided that all other geospatial data shown on the printed product meets or exceeds any accuracy standard promulgated by the Federal Emergency Management Agency.

#### SEC. 108. REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended by adding at the end the following:

“(c) REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.—

“(1) COMMUNITY PARTICIPATION.—The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this title and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—

“(A) such mobile home was previously located on such site;

“(B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and

“(C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

“(2) DEFINITION.—For purposes of this subsection, the term ‘mobile home’ has the meaning given such term in the law of the State in which the mobile home is located.”.

#### SEC. 109. REITERATION OF FEMA RESPONSIBILITY TO MAP MUDSLIDES.

As directed in section 1360(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(b)), the Director of the Federal Emergency Management Agency is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of such section 1360, in order to make known the degree of hazard within each such zone at the earliest possible date.

#### TITLE II—MISCELLANEOUS PROVISIONS

##### SEC. 201. DEFINITIONS.

In this title, the following definitions shall apply:

(1) DIRECTOR.—The term “Director” means the Director of the Federal Emergency Management Agency.

(2) FLOOD INSURANCE POLICY.—The term “flood insurance policy” means a flood insurance policy issued under the National Flood Insurance Act of 1968 (42 U.S.C. et seq.).

(3) PROGRAM.—The term “Program” means the National Flood Insurance Program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

##### SEC. 202. SUPPLEMENTAL FORMS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop supplemental forms to be issued in conjunction with the issuance of a flood insurance policy that set forth, in simple terms—

(1) the exact coverages being purchased by a policyholder;

(2) any exclusions from coverage that apply to the coverages purchased;

(3) an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss;

(4) the number and dollar value of claims filed under a flood insurance policy over the life of the property, and the effect, under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), of the filing of any further claims under a flood insurance policy with respect to that property; and

(5) any other information that the Director determines will be helpful to policyholders in understanding flood insurance coverage.

(b) DISTRIBUTION.—The forms developed under subsection (a) shall be given to—

(1) all holders of a flood insurance policy at the time of purchase and renewal; and

(2) insurance companies and agents that are authorized to sell flood insurance policies.

##### SEC. 203. ACKNOWLEDGEMENT FORM.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop an acknowledgement form to be signed by the purchaser of a flood insurance policy that contains—

(1) an acknowledgement that the purchaser has received a copy of the standard flood insurance policy, and any forms developed under section 202; and

(2) an acknowledgement that the purchaser has been told that the contents of a property or dwelling are not covered under the terms of the standard flood insurance policy, and that the policyholder has the option to purchase additional coverage for such contents.

(b) DISTRIBUTION.—Copies of an acknowledgement form executed under subsection (a) shall be made available to the purchaser and the Director.

##### SEC. 204. FLOOD INSURANCE CLAIMS HANDBOOK.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director shall develop a flood insurance claims handbook that contains—

(1) a description of the procedures to be followed to file a claim under the Program, including how to pursue a claim to completion;

(2) how to file supplementary claims, proof of loss, and any other information relating to the filing of claims under the Program; and

(3) detailed information regarding the appeals process established under section 205.

(b) DISTRIBUTION.—The handbook developed under subsection (a) shall be made available to—

(1) each insurance company and agent authorized to sell flood insurance policies; and

(2) each purchaser, at the time of purchase and renewal, of a flood insurance policy, and at the time of any flood loss sustained by such purchaser.

##### SEC. 205. APPEAL OF DECISIONS RELATING TO FLOOD INSURANCE COVERAGE.

Not later than 6 months after the date of enactment of this Act, the Director shall, by regulation, establish an appeals process through which holders of a flood insurance policy may appeal the decisions, with respect to claims, proofs of loss, and loss estimates relating to such flood insurance policy, of—

(1) any insurance agent or adjuster, or insurance company; or

(2) any employee or contractor of the Federal Emergency Management Agency.

##### SEC. 206. STUDY AND REPORT ON USE OF COST COMPLIANCE COVERAGE.

Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit to Congress a report that sets forth—

(1) the use of cost of compliance coverage under section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) in connection with flood insurance policies;

(2) any barriers to policyholders using the funds provided by cost of compliance coverage under that section 1304(b) under a flood insurance policy, and recommendations to address those barriers; and

(3) the steps that the Federal Emergency Management Agency has taken to ensure that funds paid for cost of compliance coverage under that section 1304(b) are being used to lessen the burdens on all homeowners and the Program.

##### SEC. 207. MINIMUM TRAINING AND EDUCATION REQUIREMENTS.

The Director of the Federal Emergency Management Agency shall, in cooperation with the insurance industry, State insurance regulators, and other interested parties—

(1) establish minimum training and education requirements for all insurance agents who sell flood insurance policies; and

(2) not later than 6 months after the date of enactment of this Act, publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements.

#### SEC. 208. GAO STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of—

(1) the adequacy of the scope of coverage provided under flood insurance policies in meeting the intended goal of Congress that flood victims be restored to their pre-flood conditions, and any recommendations to ensure that goal is being met;

(2) the adequacy of payments to flood victims under flood insurance policies; and

(3) the practices of the Federal Emergency Management Agency and insurance adjusters in estimating losses incurred during a flood, and how such practices affect the adequacy of payments to flood victims.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report regarding the results of the study under subsection (a).

#### SEC. 209. PROSPECTIVE PAYMENT OF FLOOD INSURANCE PREMIUMS.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:

“(f) ADJUSTMENT OF PREMIUM.—Notwithstanding any other provision of law, if the Director determines that the holder of a flood insurance policy issued under this Act is paying a lower premium than is required under this section due to an error in the flood plain determination, the Director may only prospectively charge the higher premium rate.”.

#### SEC. 210. REPORT ON CHANGES TO FEE SCHEDULE OR FEE PAYMENT ARRANGEMENTS.

Not later than 3 months after the date of enactment of this Act, the Director shall submit a report on any changes or modifications made to the fee schedule or fee payment arrangements between the Federal Emergency Management Agency and insurance adjusters who provide services with respect to flood insurance policies to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

#### ORDERS FOR WEDNESDAY, JUNE 16, 2004

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Wednesday, June 16. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business for 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. WARNER. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the Defense authorization bill under the previous order. The Senate will return to the Dodd contracting amendment tomorrow morning for a final 30 minutes of debate. Following that debate at approximately 10:30 a.m., the Senate will vote in relation to the Dodd amendment. Following the disposition of the Dodd amendment, we will continue to push forward with the amending process. There are several pending amendments that will require rollcall votes, and it is my hope that we will be able to lock in time agreements on them tomorrow morning.

Senators should expect rollcall votes throughout the day tomorrow in relation to the bill as the Senate continues to make progress on the Defense authorization bill. In addition, it is my expectation that rollcall votes could occur in relation to judicial nominations as well.

#### ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. WARNER. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:05 p.m., adjourned until Wednesday, June 16, 2004, at 9 a.m.

#### NOMINATIONS

Executive nominations received by the Senate June 15, 2004:

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

LT. GEN. NORTON A. SCHWARTZ, 0000

##### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

LT. GEN. COLBY M. BROADWATER III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

LT. GEN. JOSEPH R. INGE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. RUSSEL L. HONORE, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be major general

BRIG. GEN. WILLIAM E. INGRAM JR., 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be brigadier general

COL. DOUGLAS A. PRITT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be brigadier general

COL. THOMAS T. GALKOWSKI, 0000

##### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be general

LT. GEN. JAMES E. CARTWRIGHT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

LT. GEN. JAMES T. CONWAY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be lieutenant general

MAJ. GEN. JOHN F. SATTTLER, 0000

##### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be admiral

VICE ADM. TIMOTHY J. KEATING, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF NAVAL OPERATIONS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5055:

##### To be admiral

VICE ADM. JOHN B. NATHMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be vice admiral

REAR ADM. JOHN G. MORGAN JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be vice admiral

REAR ADM. CHARLES L. MUNNS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be vice admiral

REAR ADM. RONALD A. ROUTE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral

REAR ADM. (LH) THOMAS L. ANDREWS III, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be rear admiral

REAR ADM. (LH) LEWIS S. LIBBY III, 0000  
REAR ADM. (LH) ELIZABETH M. MORRIS, 0000

#### CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 15, 2004:

##### THE JUDICIARY

VIRGINIA E. HOPKINS, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA.

RICARDO S. MARTINEZ, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON.

GENE E. K. PRATTER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.